

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL GRINKLEY,
Petitioner

v.

C.A. No. 05-11529-NG

ANDREA J. CABRAL, Sheriff,
Respondent.

ORDER FOR DISMISSAL

GERTNER, D.J.

In accordance with the Electronic Order entered this date, granting the Respondent's Motion to Dismiss for the reasons stated therein,¹ it is hereby ORDERED that the above captioned

¹The Electronic Order appears on the docket of this case as follows:

Electronic ORDER entered GRANTING defendant's Motion to Dismiss Petitioner's Habeas Corpus Petition [#11]. At the time he filed his habeas petition, petitioner was a pretrial detainee awaiting trial in state court. However, petitioner filed his petition pursuant to 28 U.S.C. 2254, which permits challenges only by "person[s] in custody pursuant to the judgment of a State court." Because petitioner was not in custody pursuant to a state court judgment, as the statute requires, this Court lacks subject matter jurisdiction to consider his claims and therefore dismisses his petition. As such this dismissal is NOT a decision on the merits, and DOES NOT render the dismissed petition a "first" petition for the purposes of the Anti-Terrorism and Effective Death Penalty Act's prohibition on "second and successive" petitions. See 28 U.S.C. 2244. This dismissal is also without prejudice to the petitioner's moving this Court within sixty days of the date of this Order to reconsider his petition pursuant to Section 2254, or to convert the petition to one filed pursuant to Section 2241. If petitioner moves to reconsider or to convert, he is ordered to file with this Court at the same time an update on his state court proceedings. (Gertner, Nancy) (Entered: 01/30/2006)

matter is dismissed in its entirety.

By the Court,

Dated: January 30, 2006

s/ Maryellen Molloy
Deputy Clerk